

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

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CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY 3
DEPUTY

MANDOLA MANAGEMENT, INC.,
PLAINTIFF/
COUNTER-DEFENDANT,

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V.

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CIVIL NO. A-11-CV-478-LY

PHILADELPHIA INDEMNITY
INSURANCE COMPANY,
DEFENDANT/
COUNTER-PLAINTIFF,

§
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§
§

V.

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§

DAMIAN MANDOLA, TRINA
MANDOLA, AND TRATTORIA LISINA,
L.L.C.,
COUNTER-DEFENDANTS.

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FINAL JUDGMENT

Before the court is the above styled and numbered cause of action. Plaintiff Mandola Management brought this action for indemnification on behalf of DuchMandola, Ltd. against Defendant Philadelphia Indemnity Insurance Company. Philadelphia Indemnity counterclaimed against Mandola Management and Counter-Defendant Damian and Trina Mandola and Trattoria Lisina for a declaratory judgment and breach of contract.¹ On July 10, 2012, the court granted Defendant Philadelphia Indemnity's motion to dismiss and dismissed Mandola Management's complaint (Clerk's Doc. No. 84). By the same order, the court granted Damian and Trina Mandola's motion for summary judgment as to Philadelphia Indemnity's counterclaim for breach of contract and dismissed the counterclaim.

On this day, the court resolved the remaining claims in this action. The court granted Damian

¹Philadelphia Indemnity never served Trattoria Lisina with its counterclaim.

and Trina Mandola's second motion for summary judgment and dismissed Philadelphia Indemnity's counterclaim for declaratory judgment as to the Mandolas. The court also granted Philadelphia Indemnity's motion for summary judgment with respect to its counterclaim against Mandola Management for a judgment declaring that no coverage is available under the insurance policies at issue in this suit. Finally, the court *sua sponte* dismissed Philadelphia Indemnity's counterclaim for breach of contract against Mandola Management. Accordingly, the court hereby brings forth its prior rulings and renders the following final judgment pursuant to Federal Rule of Civil Procedure 58.

IT IS HEREBY ORDERED that Plaintiff Mandola Management, Inc.'s complaint (Clerk's Doc. No. 47) is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Philadelphia Indemnity Insurance Company's counterclaim for breach of contract (Clerk's Doc. No. 67) is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Philadelphia Indemnity Insurance Company's counterclaim for declaratory judgment against Damian Mandola and Trina Mandola (Clerk's Doc. No. 67) is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER DECLARED that there is no coverage afforded by Private Company Protection Plus Policy Number PHSD368263, along with any changes, modifications, endorsements, or amendments, for the alleged indemnity agreement between Mandola Management, Inc. and DuchMandola, Ltd. or the alleged damages incurred by Mandola Management, Inc. as a result of DuchMandola's failure to pay for defense costs and damages incurred by Mandola Management arising out of the Bounds Claim.

IT IS FURTHER DECLARED that there is no coverage afforded by Private Company Protection Plus Policy Number PHSD451932, along with any changes, modifications, endorsements,

or amendments, for the alleged indemnity agreement between Mandola Management, Inc. and DuchMandola, Ltd. or the alleged damages incurred by Mandola Management, Inc. as a result of DuchMandola, Ltd's failure to pay for defense costs and damages incurred by Mandola Management arising out of the Bounds Claim.

IT IS FURTHER ORDERED that the parties shall bear their own costs of court.

IT IS FINALLY ORDERED that this case is **CLOSED**.

SIGNED this 8th day of January, 2013.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE